

20 October 1947

OGC Has Reviewed

STATINTL

MEMORANDUM FOR THE
Attention: [REDACTED]

Subject : Naturalization of Aliens

1. The alien wife of an American citizen, whose wedding or naturalization of the husband is after 13 January 1941, must normally complete two years residence in the United States before filing a petition for naturalization. The only exception provided for by law to shorten this period is in Section 312 of the Nationality Act of 1940, which is quoted as follows:

"Alien whose citizen spouse is in the employ-
ment of the United States Government, or of an American
institution of research, or an American firm or corpora-
tion engaged in the development of foreign trade and
commerce of the United States. An alien whose citizen
spouse is in the employment of the United States Govern-
ment, or of an American institution of research recognized
as such by the Attorney General, or an American firm or
corporation engaged in the development of the foreign
trade and commerce of the United States, and whose
citizen spouse is regularly stationed abroad in such
employment, may be naturalized upon full compliance
with all requirements of the naturalization laws, with
the following exceptions: (1) no declaration of in-
tenion shall be required; and (2) no prior residence
within the United States or within the jurisdiction of
the naturalization court shall be required. Such an
alien shall declare in good faith an intention to take
up permanent residence within the United States immediately
upon the termination of such employment abroad of the
citizen spouse."

It will be noted that the husband of an alien wife under that Section must be an actual employee and must be regularly stationed abroad in such employment. "Regularly stationed abroad" means that he has been serving abroad at the post to which he is now assigned or a similar one and is returning to that post or a similar one for an indefinite tour of duty. If the husband fulfills those conditions, the wife must be physically present in this country to file her petition before an American court. If the husband fulfills the conditions overseas by becoming an employee of an American firm or corporation engaging

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in the development of foreign trade and commerce of the United States, the wife would have to return to this country for naturalization. It should be noted that the alien wife must intend in good faith to return to the United States for permanent residence upon the termination of the husband's employment abroad. If the conditions of that Section are not met, it should be pointed out that absence of the alien wife for periods of less than a year will not break the continuity of her residence in the United States for naturalization purposes.

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LHH:mbt